

REMARKS

I. Status of Claims

Upon entry of the Amendment, which is respectfully requested, claims 1-8 will be pending in the present application.

Claims 1-7 are amended. Support for the amendments of claims 1-7 can be found at least at the paragraph bridging pages 5 and 6 of the present specification.

Claim 8 is added. Support for claim 8 can be found at least in working Examples 1 and 2 at pages 13 and 14 of the present specification, respectively.

No new matter is added, and entry and consideration of the amendment is respectfully requested.

II. Response to Rejection Under 35 U.S.C. § 102

Claims 1-7 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by Castenmiller (U.S. Patent No. 4,874,626).

Regarding instant claim 1, the Office asserts that Castenmiller teaches a mousse-type spread, which comprises a water-in-oil type emulsion or a composition in the form of a water-in-oil type emulsion by conducting a mixing in use and a gas propellant. Furthermore, in the matter of instant claim 4, the Office asserts that Castenmiller teaches a mousse-type edible oil, which comprises an edible oil, an emulsifier and a gas propellant.

Applicants respectfully traverse at least for the following reasons.

As an initial matter, Applicants submit that no example of a water-in-oil type emulsion discharged in the mousse form has been reported yet. See full paragraph bridging pages 5 and 6 of the present specification.

Furthermore, instant claims 1 and 4 recite a foamable composition comprising a water-in-oil type emulsion and a foamable edible oil composition, respectively. The foamable composition and foamable edible oil composition each are contained in an aerosol discharger comprising a gas propellant dissolved in the water-in-oil type emulsion or the edible oil, and the aerosol container is pressurized. When the emulsion or edible oil composition is discharged from the nozzle, pressure is released and the gas can no longer remain dissolved. Therefore, fine bubbles are generated in the water-in-oil type emulsion or edible oil, resulting in the formation of a foam at the time of jetting (discharging). Furthermore, in addition, hydrogenated oil or hardened oil which causes crystallization of fat after cooling is not used in the presently claimed invention.

In contrast, Castenmiller teaches a composition which has pre-formed bubble of helium contained in the other ingredients in solid form. Castenmiller, at column 5, line 54, teaches that a liquid composition is chilled and a crystallizer is used to “crystallize the fat” from the liquid composition. Furthermore, in working Examples 1 to 4 in Castenmiller, a product obtained by passing through a “crystallizer” is a composition mainly containing an oil (hydrogenated fish oil) having a melting temperature of 35°C is kept at 5°C. Moreover in working Example 5 in Castenmiller, hardened soybean oil and hardened palm oil are passed through a crystallizer, and it is described that the solids content of the three margarine products at various temperatures do

not differ much. Namely, in Castenmiller, crystallization of fat is essential and the margarine is in a solid state owing to the crystallization of fat, with the He bubbles embedded with the solid margarine.

In view of the above, Applicants respectfully submit that claim 1 and 4 is not anticipated by Castenmiller. Claims 2-3 and 5-8 are patentable, at least by virtue of their dependence from claims 1 and 4, respectively. Therefore, reconsideration and withdrawal of the §102 rejection is therefore respectfully requested.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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